

CAPITAL PROJECTS ADVISORY REVIEW BOARD
Conference Room SL-03, Office Building Two
Olympia, Washington
September 9, 2010
9:00 AM

Draft Minutes

MEMBERS PRESENT

Daniel Absher
Vince Campanella (via
teleconference)
Norman Strong
Damon Smith
Christine McCorkle
Ed Kommers (Vice
Chair)
David D. Johnson
Cynthia Cooper
John Ahlers
Christopher Hirst
Olivia Yang
John Lynch (via
teleconference)
Rodney Eng
Gary Rowe
Robert Maruska
Steven Crawford
Rep. Bruce Dammeier

REPRESENTING

General Contractors
General Contractors

Architects
Engineers
Specialty Contractors
Specialty Contractors

Construction Trades Labor
OWMBE
Private Industry
Private Industry
Higher Education

GA
Cities
Counties
Ports
School Districts
House (R)

MEMBERS ABSENT

Rep. Kathy Haigh House (D)
Senator Rodney Tom Senate (D)
Senator Dale Brandland Senate (R)
Mark Riker Construction Trades Labor
Larry Byers Insurance/Surety Industry
Vacant Public Hospital Districts

STAFF & GUESTS

Nancy Deakins, GA
Danelle Bessett, GA
Cheri Lindgren, Puget Sound Meeting Services
Dick Lutz, Centennial Construction
Brent LeVander, Centennial Construction
Rory Woolsey, Gordian Group
Penny Koal, GA/PRC
Robyn Hofstad, GA/PRC
Jim Anderson, Burton Construction
Mike Purdy, MP Associates
Josh Swanson, Rebound

Lisa Taylor, King County WTD
Jeanne Rynne, OSPI
Nora Huey, Port of Seattle
Jim Borrow, KCDA
Linneth Riley-Hall, Sound Transit
Ken Guy, King County
Dorcus Nepple, Port of Tacoma
Thomas Kuffel, King County
Ginger Eagle, WA Ports
Jim Christensen, WAFCF

Welcome & Introductions

Chair Robert Maruska called the Capital Projects Advisory Review Board (CPARB) meeting to order at 9:06 a.m. Everyone present provided self-introductions. A meeting quorum was attained.

Approve Agenda

Chair Maruska reviewed the meeting agenda.

Chair Maruska welcomed School District representative Steven Crawford. Mr. Crawford is with the Issaquah School District. Mr. Crawford shared information on his professional and construction background.

Daniel Absher moved, seconded by David Johnson, to approve the agenda as presented. Motion carried.

Representative Bruce Dammeier arrived at the meeting.

Approve May 13, 2010 Meeting Minutes

David Johnson moved, seconded by Rodney Eng, to approve the May 13, 2010 meeting minutes as presented. Motion carried.

Public Comments

Jim Anderson, Burton Construction, said he'll comment on job order contracting later in the meeting.

King County Work Order Contracts

Chair Maruska referred to a letter from National Association of Minority Contractors (NAMC), Puget Sound Minority Contractors, A. Phillip Randolph Institute - Tacoma Chapter, and Community Coalition for Contracts and Jobs (CCCJ). The letter concerns King County's practice of using work order contracts, which those agencies believe violates Chapter 39.10, Alternative Public Works (APW) Contracting Procedures. The CPARB does not have the authority to take action as requested in the letter. The agencies and King County were invited to discuss the issue. He deferred discussion until King County representatives arrive.

Report from Project Review Committee

Penny Koal, Chair, Project Review Committee (PRC), reported the PRC considered three project applications and two recertification applications during the July 22 meeting. The PRC approved the following two projects:

- City of Everett's Water Pollution Control Facility, Phase C Expansion, using the General Contractor Construction Manager (GC/CM) delivery method.
- Sound Transit's South 200th Extension Project using the Design-Build (D-B) methodology.

The PRC denied the City of Everett's application to utilize D-B for a municipal court project. The project did not meet criteria as outlined in statute. The owner team did not exhibit sufficient D-B expertise to manage the project. It's likely the City of Everett will pursue the Design-Bid-Build (DBB) process to deliver the project.

The PRC considered and unanimously approved the University of Washington's (UW) recertification for GC/CM. Ms. Koal provided additional information on lessons learned UW representatives shared during the presentation including efforts to reach out and select contractors who are new to the GC/CM process.

The Washington State University's (WSU) recertification application for GC/CM was scheduled on the agenda. Agency representatives did not notify the PRC they wouldn't be attending the meeting. The statute and PRC bylaws do not address the issue of applicants attending. Additionally, attendance is not addressed within the recertification application. Ms. Koal asked for guidance on the attendance issue. Recertification is an abbreviated process of the initial certification application procedure.

Mr. Eng recalled that recertification was intended to be different from certification, which could include an abbreviated process. Unless concerns are raised, recertification should be approved for a certified body.

Mr. Hirst commented that the Board is trusting certified entities to follow the APW process over a period versus those owners applying on a project-specific basis. He suggested requiring owners to either appear in person or be available by telephone.

Mr. Johnson recalled that recertification applications entailed an abbreviated process. However, he understood representatives would attend, as recertification is not an automatic process even if the PRC has no concerns. It's reasonable for representatives to attend to share examples of successful projects and outcomes, as well as sharing lessons learned.

Mr. Absher said there appears to be two questions of whether it was the Board's intent several years ago and whether that intent exists today. The original intent was creating a less onerous recertification process because owners were interested in a 5 to 6-year certification period rather than three years. An important element for recertification was providing notice enabling the public to have an opportunity to testify if there were problems with an owner. Whether an owner attends the recertification process is the owner's decision. It is however, a good idea for the owner to attend to address comments if there is public testimony against the agency. An owner could risk not being recertified. It's important the public have an opportunity to testify why an owner shouldn't be recertified.

Mr. Eng agreed. The PRC's agenda includes time for presentations by owners requesting recertification, which isn't different then the initial certification application process and might not be what the Board intended for recertification.

Mr. Kommers agreed with Mr. Absher. It's important that the public have an opportunity to express concerns about an owner. It isn't reasonable for the PRC or the Board to withhold recertification if an owner doesn't attend. However, it's beneficial for owners to attend and they should be encouraged to attend. It could be to their peril if the public testifies against an owner and the owner is not attendance to respond to the complaints.

Representative Dammeier encouraged the PRC to allow owners and the public to participate in meetings in other forms other than attending a meeting. Budget problems impacting agencies will continue for some time.

Several member offered feedback. As part of the recertification application process, the PRC could encourage participation by person or by teleconference. Another option is modifying the recertification application by including WebEx, a system for attending meetings over the web or requesting attendance if the PRC desires a presentation.

Ms. Koal reported the PRC did not act on WSU's recertification application and deferred consideration until the next meeting. There was no public testimony on the owner's recertification request.

Daniel Absher moved, seconded by Rodney Eng, to recommend the PRC invite public owners to attend either in person, telephone, or via web with no mandate to attend, and that the recertification process clearly be more streamlined than the certification process.

Mr. Johnson offered a friendly amendment emphasizing the PRC and CPARB strongly encourages an owner to be available to respond to any problems and offer information on lessons learned.

The makers of the motion accepted the friendly amendment to change "invite" to "encourage" the public owner to attend.

Discussion ensued on why the PRC was created, and whether the Board intended to mandate an owner's attendance for recertification. Mr. Johnson said he never anticipated owners wouldn't attend when the PRC considers a recertification.

Tom Peterson, PRC Vice Chair, advised that the recertification application was developed around the statute. It's also unknown whether WebEx technology is available to the committee, owners, and/or the public.

Mr. Hirst said it's important for the Board to consider the history of the legislation. The PRC is seeking policy clarification and he's comfortable with the motion. A policy decision may or may not be driven by the history.

Nancy Deakins advised that there is value with the PRC having a dialogue with an owner about lessons learned and the ability to ask questions on issues of interest.

Mr. Campanella expressed support of the motion.

Mr. Lynch commented that the recertification application is very thorough. An owner's attendance is important. He's supportive of the motion as well.

The motion carried recommending the PRC encourage but not mandate attendance of public owners requesting recertification either in person, telephone, or via web, and reiterating the recertification process clearly is a more streamlined process than the certification procedure.

Ms. Koal reported on projects and recertifications scheduled for the PRC's September 23 meeting.

King County Work Order Contracts, Continued

Mr. Ahlers said he read the June 24 letter and July 22 response from the Department of General Administration concerning King County's work order contract procedure. The concerns and/or violations were not clearly stated.

Ken Guy, Director, Finance and Business Operations Division, King County, and Tom Kuffel, King County Prosecuting Attorney's Office, provided self-introductions.

Mr. Guy reported the issue is that job order contracting focuses more on subcontracting and requires prime contractors to subcontract at least 90% of the work. He provided information on King County's practice of work order contracts, which are very effective and have been widely used for the last 12 years. The work order program is designed to be consistent with state bid laws. Work order contracts are a good contracting tool for the county amounting to \$37 million involving 83 work order contracts for projects from 2007 to 2009. Work order contracts are not used for major projects but for projects of \$500,000 on an annual basis. The contracts are publicly advertised and awarded to the lowest bidder based on specifications.

The County contacted representatives from CCCJ and explained King County's interest to have a wide range of contracting tools for projects and particularly when focusing on small businesses. King County utilizes the formal competitive bid process, work order contracts, job order contracting (JOC), small works rosters, and limited public works. In March, the King County Executive issued an executive order focused on the procurement reform initiative containing two primary elements:

- Make it easier for all contractors and vendors to do business with King County.
- Emphasize increased contracting opportunities for small businesses.

County staff is looking at each contracting tool and exploring options for utilizing the best tools. King County has not implemented JOC, which is of interest to CCCJ from a subcontracting perspective. There is nothing preventing the County from increasing the amount of subcontracting on work orders. Prime contractors primarily use work order contracts with participation by small contractors and suppliers. The County is evaluating requirements for more subcontracting as part of work order contracting and the feasibility of implementing JOC. A concern with JOC is risk. King County does not guarantee a contractor any amount of work with work order contracting. King County staff met with CCCJ representatives and two Councilmembers and discussed the procurement reform initiative and what is best for King County in terms of mechanisms to promote and increase opportunities for small business.

Chair Maruska asked whether a work order is pursued under the statutory authority of the low bid, Design-Bid-Build requirement rather than under 39.10. Mr. Kuffel affirmed that is the process. King County's public works provision is outlined in RCW 36.32.235. RCW 39.10 enables supplemental authority to the County.

Mr. Absher asked about the difference between a public bid for a \$20 million project and a work order contract. Mr. Kuffel said the same process is used for both. Work orders are used to address discreet categories of work in areas where issues, such as plumbing, electrical, and Hazmat abatement sometimes occur and the County needs to address those issues quickly. Specifications were developed describing in general the body of work for on-call contracts. The work is publicly advertised. The County solicits bids and unit prices. The unit prices are extended and the work is awarded to the lowest responsive responsible bidder.

Mr. Ahlers questioned the concern by NAMC. Mr. Kuffel said it appears NAMC is interested in mandatory minority subcontracting requirements. Mr. Guy advised that the County has a small supplier and contractor program. For work order contracts, the goal is to have at least two small contractor/supplier firms for those work orders. King County is examining the procurement process and considering mandatory subcontracting requirements as part of its small contractor/supplier program.

Mr. Kommers referred to previous concerns and complaints that have since been addressed. He's not aware of any bid protests related to the procurement process and asked King County representatives to work with the Board on proposed changes to the work order contracting process.

Ms. Cooper asked whether CCCJ representatives expressed concerns about the County's authority to use work order contracts and, if so, whether it was resolved. Mr. Guy responded that the issue is outlined in the June 24 letter. At the meeting on September 8, the parties did not discuss detailed legal issues. Stakeholders discussed underlying interest with JOC requiring the prime contractor to subcontract at least 90% of the total work, which meets CCCJ's interest than other forms of contracting. Ms. Cooper inquired whether goals were established for the work order contracts over the last 12 years. Mr. Guy said he's unsure. However, the County's small contractor/supplier program was established in 2005. Mr. Kuffel advised that an ordinance on a minority and women's utilization program that applied to public works expired in 1999.

Mr. Johnson said his concern involves on call contractors and that an owner is not using the same contractor repeatedly. He asked about the County's process to identify on call contractors for specific categories of work. Mr. Kuffel said he does not have an answer concerning the history and who's been awarded contracts. There is only one contract for a particular category of work. For example, contracts typically do not exceed \$500,000. Work orders are issued off that contract to the lowest responsive responsible bidder for that procurement. The contractor is not guaranteed a particular amount of work. The County's intent is to contract immediately to address issues. The sealed bid process is the approach King County is using.

Mr. Johnson referred to JOC reporting requirements to demonstrate how firms rotate contractors rather than using the same contractor repeatedly. Mr. Guy said there is a master contract with a contractor and the County issues specific work orders against those contracts.

Mr. Eng asked about the number of contractors awarded contracts as part of the \$37 million during the period from 2007 to 2009. Mr. Guy advised that he will follow up with the information, as it's not readily available at this time.

Ms. Cooper asked whether any goals for small business or women and minority owned businesses were established for the 83 contracts awarded for the two years and whether data are tracked. Mr. Kuffel said generally, the contracts were for one-year and did not exceed \$500,000. The contracts could be extended for an additional one-year term only.

Mr. Eng said efficiency and speed are primary reasons a public owner uses work order contracting.

Representative Dammeier asked whether the scope to apply work order contracts has expanded over the last 12 years. Comfort and ease could also lead to using that method for typical work rather than projects with emergent requirements. Mr. Guy said the primary focus is to address emerging needs. The typical limit is \$500,000.

Mr. Lynch asked whether work orders are for time and materials. Unit price has been mentioned. He asked whether unit prices are published or whether the County bids other prices. Mr. Kuffel advised that unit prices are typically not published. The County bids unit prices. Mr. Guy added that unit prices represent a body of work when the work is bid. Contractor qualifications are relevant; however, contractors also commit to pricing. There is also a renewal opportunity where contractors can renew a contract for an additional year if they haven't expended the funds within one year.

Ms. Yang said the term, "work order" might be confusing because the work is bid based on unit pricing that is specific to a trade.

Chair Maruska said it appears the Board is requesting King County provide additional information on the following:

- The number of contractors, including names, awarded work by year from 2007 to 2009.
- Whether there were goals (small business or minority and women owned businesses) during the same timeframe and whether the County tracked data.
- Provide an example of the unit price component to provide the Board with a clearer understanding of how the work is bid and how the contract is utilized.
- It would be helpful to have a copy of the County's statute governing the process.

Mr. Guy reported the County will provide additional information that is readily available. King County is examining current practices for work orders, opportunities for JOC, and other contracting options as part of the procurement initiative. King County is interested in obtaining input from a variety of stakeholders concerning the procurement initiative.

Boardmembers thanked King County representatives for attending and responding to questions.

Chair Maruska recessed the meeting from 10:23 a.m. to 10:37 a.m. for a break.

Chair Maruska recommended having GA staff draft a letter on behalf of the CPARB in response to CCCJ's June 24 letter containing the following points:

- King County representatives provided the Board with a presentation on September 9.
- Include a copy of the September 9 Board minutes with the letter.
- Members regret that CCCJ representatives were unable to attend the September 9 meeting.
- The CPARB requested additional information from King County.
- The Board does not anticipate any action in response to the letter.

Mr. Absher suggested delaying the letter and the commitment of no action until the Board receives additional information from King County. Members agreed with his recommendation.

Chair Maruska asked staff to distribute the draft letter to members for review and input prior to mailing.

Board and PRC Membership

Ms. Deakins referred to a list of PRC members. The Association of Counties was contacted to identify a Counties Representative to the committee. Penny Koal's term expired in June 2010. At the May meeting, the Board did not extend Ms. Koal's term for an additional year.

Cynthia Cooper moved, seconded by Dave Johnson, to reappoint Penny Koal representing a state owner (GA) for an additional one-year term. Motion carried.

Ms. Deakins reported staff will forward a letter encouraging Public Hospital Districts to fill the current position on the CPARB.

Representative Dammeier reported on Senator Dale Brandland's retirement. Additionally, he and Senator Rodney Tom are up for reelection. He recommended the Board should continue to work with current legislative representatives and reevaluate a strategy following the November election.

Task Force Status Reports

Integrated Project Delivery (IPD)/Best Value (BV)

Mr. Strong reported on the IPD component. The task force's work product includes a white paper dated November 23, 2009, which was endorsed by the Board outlining IPD approaches possible under current legislation, and the "Report on Optimizing Efficiency in Capital Project Delivery" dated September 1, 2010. That report focuses on changes needed to implement new models of delivery. It's intended to provide information to the CPARB for further consideration and study prior to recommending any changes to the current statutes or creation of new delivery models. The task force recommends the Board consider the following for discussion at a future meeting:

- **Multi-party agreements.** An emerging trend in the private sector is bringing the owner, design team, and construction team together under a single contract.
- **CPARB and the PRC.** The concept of how CPARB and/or the PRC might be revised to suit this new way of thinking should be considered by the Board.
- **Utilize known resources.** The design and construction industry have in-depth documents on some of these new delivery models as well as knowledgeable and sophisticated staff to provide information and advice to the CPARB.

Mr. Strong advised that the task force will no longer continue to meet.

Mr. Lynch reported on the BV component. At the May 13 meeting, the Board moved to direct the BV task force to draft legislative language for the BV alternative contracting method for consideration. The draft legislation and task force comments were distributed as pre-reads. The task force is seeking guidance from the CPARB on whether to move that forward to the 2011 legislative session.

Mr. Lynch reviewed the proposal:

- The pilot program would be in effect for two years and sunset with 39.10.
- For a public body authorized to use BV, the owner must have completed either a GC/CM or D-B project in the previous five years.
- Criteria include a project of high risk, a high level of contractor management skills in a specialized area during construction, and the project has a high potential to benefit from the value added by specialized construction management.
- No public body may be authorized more than three pilot projects using BV.

Mr. Lynch reviewed the proposed contractor selection process. Agencies participating in the BV pilot program are required to submit project information to the CPARB to evaluate the effectiveness of the process. Next steps include reconvening the task force, consider task force member comments, and returning to the Board with draft legislation based on a consensus of the task force.

Chair Maruska suggested having the task force continue working with current legislative representatives. The CPARB could decide after the election on whether to move forward with draft legislation or consider another approach.

Mr. Lynch asked for feedback on the draft language proposal and any potential fatal flaws.

Ms. Cooper noted that there are two different language proposals with one from the task force and one with revisions from the Port of Seattle. She asked why the Port's proposal strikes language stating in part, "The public body shall make an offer to solicit proposals from certified minority or certified women owned contractors to the extent permitted..." Mr. Kommers advised that there are some comments that should be addressed at the task force level to enable members to provide clarification. An option is having the task force consider the comments and fine-tune the legislative draft, as there are some fatal flaws and significant concerns with the proposed legislation. Some specialty contractors, general contractors, and labor have reservations. Additional work is needed before the CPARB and other stakeholders can support the concept.

Ms. Cooper asked about the timing for further discussions on the proposal. Chair Maruska offered that those discussions can occur during the task force meeting.

Mr. Johnson agreed with Mr. Kommers. There are major problems not just with legislation, but also with the BV concept in general. Labor likely won't support legislation and he's unable to articulate specific changes at this time. He referred to problems with a project involving the selection process of the contractor and that the owner was not forthcoming with information requests. He expressed appreciation for the work of the task force; however, now is not the right time to pursue that methodology.

Mr. Absher suggested members unable to attend task force meetings should have an opportunity to provide input now. One fatal flaw is the way BV is defined, as every public agency could create a completely different process for determining contractors. The only way contractors will support the proposal is if it outlines a procedure on how the selection process occurs.

Mr. Strong said the task force has met on numerous occasions. All Boardmembers are represented on the task force and some members have served on the task force. The idea that there are major concerns is a little troubling. The proposal is to develop a pilot program that can be reconsidered after two years. The plan before the Board was developed using a deliberative process of input and collaboration by stakeholders.

Mr. Johnson said he was not aware of the number of task force meetings and did not receive notice regarding some of the meetings. Labor's position has been consistent from the beginning in that labor does not support BV legislation. Issues surround how owners utilize local workers, utilization of apprentices, effective training programs, and how the project benefits the community. Researching federal BV processes has been challenging.

Mr. Lynch suggested having the task force incorporate the comments and revise the proposal. The intent is presenting a revised bill to the Board at its October meeting. The issue is whether the Board should move forward with the change during the 2011 legislative session.

Ms. Cooper questioned the deletion of minority and women owned businesses language. The OMWBE is not supportive of the draft bill as currently drafted. Mr. Kommers pointed out that the Port's proposal is not the version supported by the task force.

Ms. Deakins suggested forwarding the task force's proposal to the Board because members did not receive the draft prior to the meeting.

Representative Dammeier commented that the two areas of change in the next sessions include the anticipated turnover in the House as well as difficulty in advancing controversial legislation.

Responsibility/Eligibility

Mr. Ahlers reported the updated suggested guidelines are ready to send out to Responsibility/Eligibility Task Force members for review and comment. Notice of the next meeting will be forwarded when a meeting location is determined. A letter was sent to stakeholders asking whether there are good examples of responsibility criteria that have been changed and revised to reflect competing owner and contractor interests. A major issue of consideration is experience criteria and how to develop experience criteria to avoid limiting the pool of perspective bidders while achieving the objective of ensuring contractors have the appropriate experience. Good and bad examples of responsibility criteria would be helpful and ultimately could be used as educational examples and included in the materials.

The second issue involves obtaining input from stakeholders on safety experience and how to make it meaningful and meet the objectives of the task force. The task force does not anticipate bringing legislation to the Board at this time.

Ms. Yang suggested sending BV and Responsibility/Eligibility task force meeting notices and draft materials to each task force membership as well as to the Board. Mr. Ahlers and Mr. Strong acknowledged the suggestion.

Ms. Deakins commented that the PRC and IPD/BV task force are authorized to meet at the Carpenters Facility in Kent. A request was submitted seeking the same authorization for the Responsibility/Eligibility task force.

2010 Work Plan

JOC Task Force – Data Collection/Legislation

Dick Lutz, Centennial Contractors, introduced Brent LeVander, Senior Vice President, Centennial Contractors.

Mr. LeVander provided an overview of proposed alterations to the JOC statute. The changes focus on three areas of law:

- **Increase the yearly contract value from \$4 million to \$6 million.** The threshold was initially set at \$3 million. Increasing the value will provide more work for subcontractors. For the 2008 reporting period, \$1.7 million was subcontracted to minority and women owned businesses. Approximately \$3.4 million was subcontracted to minority and women owned businesses in 2009. The increase could also result in a lower co-efficient and savings to the public body. Two users, UW and GA, routinely hit the \$4 million annual ceiling.
- **Expand the list of authorized public bodies that can use JOC.** The proposal is to add Sound Transit as an authorized public body as well as expanding the authority to regional colleges and universities. Another feature is to allow public bodies that do not meet the present size threshold to enter into an interlocal agreement (ILA) with a larger public body to use that public owner's JOC.
- **Increase the limit for all work orders not to exceed \$500,000.** This change, from \$350,000 to \$500,000, provides for more subcontracting and other opportunities.

Mr. Ahlers reported that JOC requires the prime contractor to subcontract at least 90% of the total work. Mr. LeVander affirmed that provision would not change.

Mr. Ahlers advised that utility contractors have indicated it's difficult to meet the subcontracting requirement. He asked whether it's reasonable to distinguish between building construction and underground heavy highway work. Mr. LeVander replied that he understands the issues utility and general contractors might face; however, the proposed legislation doesn't include changes to subcontracting requirements.

Mr. Ahlers asked about minority and/or women owned business requirements for JOC. Mr. LeVander said goals are established for each JOC upon award of the contract and analyzed annually as part of the CPARB data collection program.

Ms. Cooper commented that all public agencies, colleges, and universities are required to report goal data to OWMBE. However, she's unsure whether that is occurring. She encouraged owners to ensure reporting of data occurs. She asked about the basis for establishing the \$6 million threshold rather than a higher amount. Mr. LeVander replied that increasing the ceiling from \$3 million to \$4 million was a challenge. An increase to \$6 million appeared to be a reasonable next step.

Ms. Cooper asked whether Centennial Contractors has data supporting completion of \$500,000 in work orders by subcontractors. Mr. LeVander advised that he will follow up with the information.

Gary Rowe proposed not restricting the type of larger public body a smaller public body could work with to use JOC. One option is eliminating the examples in the proposed document.

Ginger Eagle representing Ports agreed with Mr. Rowe.

Chair Maruska asked whether general contractors and/or public owners support the proposed amendments.

Mr. Lynch said increasing the annual limit provides more flexibility to GA. The ability to enter into ILAs with parks and regional universities has worked well for GA. He suggested addressing the end of the contract period, as GA is unable to issue a new JOC until the old JOC is totally closed out.

Members discussed the number of JOCs and/or contractors. Mr. LeVander said the 2009 survey identified five public bodies utilizing 10 contracts. In 2004, there were approximately five general contractors bidding a JOC in Washington compared to an average of 15 general contractors bidding an individual opportunity in the state.

Mr. Johnson said one question is how Sound Transit and JOC will be subject to projecting labor agreements. He supported the option of examining JOC closely. Labor is experiencing challenges in tracking rotating contractor and prevailing wage data for D-B-B projects. Owners and agencies must step up and deal with compliance issues. He's not however, convinced JOC is the answer. The idea is being driven politically and it is moving too fast. Mr. LeVander affirmed that JOC public entities are reporting data to the CPARB. Data from the 2008 and 2009 CPARB surveys for JOC were utilized to compile the information.

Ms. Cooper added that her office vetted the numbers in terms of raw data. While she is comfortable data have been captured, it's not official until it is sent to her office for review. She asked whether other owners support the alterations as proposed. Mr. LeVander said representatives from Centennial Contractors have spoken with GA, UW, and City of Seattle representatives and have not encountered any adverse reactions to the proposal.

Mr. Johnson referred to problems associated with the underground economy and misclassification of workers. Agencies are reporting data supplied by job order contractors and he's not convinced job order contractors are verifying hours worked, whether workers are classified correctly, and whether workers were paid the appropriate wage. Mr. LeVander clarified that job order contractors are involved in the surveys and payroll review.

Ms. Eagle acknowledged Mr. Johnson's comments. Contractors are required to comply with reporting requirements regardless of the contracting method. She asked whether the proposal increases the workload of Labor and Industries compliance officers. Mr. Johnson said he's unsure whether the proposal adds more work or further confuses the process. Either way, it doesn't help with the compliance aspect.

Jim Anderson, Burton Construction, commented on the gap in service at the end of a JOC. One contract must be completely closed out before the public body can issue another contract. Practically speaking, the contractor cannot accept any new work from the public body 90-120 days prior to the contract completion date. The change is to allow public owners to issue work orders up to the end of the contract.

Mr. Lutz requested the CPARB include alterations to JOC with any legislative packet the Board moves forward for the next session.

Mr. LeVander acknowledged Mr. Johnson's concerns. The proposed changes do not impact compliance issues.

Mr. Johnson added that he'd like some assurance that other contractors have compliance mechanisms in place.

Discussion ensued on why JOC is singled out when it appears there could be similar compliance issues with other contracting methods.

Chair Maruska asked for feedback on whether to convene a task force for additional work on alterations to JOC. Mr. Rowe volunteered to lead a task force to address Mr. Johnson's concerns. It appears reasonable to expand rather than restrict a contracting methodology that has a good track record.

Ms. Cooper added that the OWMBE will continue to work with stakeholders on JOC.

Mr. Lynch, Ms. Yang, and Mr. Johnson volunteered to participate on a task force.

Christopher Hirst moved, seconded by Cynthia Cooper, to convene a task force.

Mr. Absher asked about role of the task force and whether public owners want to expand JOC.

Mr. Hirst clarified that his motion is to create a task force to look at the issues identified by Mr. Rowe, study data to see whether there is a difference in wage compliance among various procurement methods, and, if there is, does that inform the task force decision to recommend changes to JOC or another contracting methodology.

Mr. Rowe offered that it's important to determine what's working well and whether to expand the capability to other entities. Allowing smaller public bodies to collaborate with larger public bodies may be beneficial. However, additional information is necessary to examine whether it's an option the Board should consider. The task force can discuss the proposed alterations and report to the CPARB.

Ms. Yang advised that UW is interested in expanding the list of authorized bodies that can use JOC.

Mr. Johnson reported he recently completed service on a task force focused on the underground economy.

Mr. Rowe said his interest is looking at what's been proposed, studying the issues raised, and determining whether there is a consensus on a strategy that could result in a change in the legislation, which the task force would present to the Board.

Representative Dammeier and Boardmember Eng left the meeting.

Mr. Kommers suggested the Board should be very clear about the scope of the task force and the public notice for public participation in the discussion. The discussion should be on the scope of the task force. The Alternative Public Works Oversight Board was severely criticized for going outside its scope and not clearly describing in the public notice the topic for discussion. The proposed task force is not clearly defined and he's opposing the motion.

The motion failed 6 in favor and 8 opposed.

Mr. Kommers suggested members and stakeholders interested in modifying JOC should develop a scope of work and goals that the task force will accomplish. Wage rate compliance is a significant issue for the Board to undertake.

2010 Work Plan – Potential Legislation from Task Forces, Statute Language Clean Up Task Force-Fall, Set Up Sunset Review Task Force in the fall

Agenda topics were deferred to a future meeting.

Data Analysis Overview

Darlene Septelka provided an update on data collection efforts. The goal is to obtain data on all APW projects and conventional public works projects with a total funding of over \$5 million that had a design contract or design build contract in place after June 2005. The project team survey is now online. A memorandum was sent to owners with projects in the database asking them to start the team survey. The survey should take approximately five minutes to complete.

The last data collection report was completed in 2005. The goal is providing another report approved by the Board to the Joint Legislative Advisory Review Committee (JLARC) in May 2011. To complete an accurate report, all agencies and project team members are asked to complete the surveys no later than October 15, 2010, enabling GA staff time to analyze data for a draft report to the CPARB in February 2011.

A focus/special stakeholders meeting is scheduled on September 16, 2010 at the Centennial Building located at 1949 S. State Street in Tacoma. The meeting is open to the public. The purpose is to collect non-survey input from stakeholders (architects, engineers, contractors, subcontractors) on current APW processes and practices. Owners and/or owner representatives should attend the meeting as it reflects their support of the data collection effort.

Discussion ensued on public notice strategies to reach a variety of stakeholders.

Ms. Septelka advised that the 2011 report will not include JOC, which is typically reported on an annual basis.

Set Next Meeting Agenda/Future Meetings

- The November 11 meeting has been rescheduled to October 28 because of the holiday.
- Standing agenda items.
- Legislative issues.

Adjournment

With there being no further business, Chair Maruska adjourned the meeting at 12:27 p.m.

Robert Maruska, CPARB Chair